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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION N
10/628,096	07/25/2003	Robert Lee Friou	P03919	3524
28548	7590	10/18/2004	EXAMINER	
STONEMAN LAW OFFICES, LTD 3113 NORTH 3RD STREET PHOENIX, AZ 85012			HOESLY, RYAN C	
			ART UNIT	PAPER NUMBER
			3727	

DATE MAILED: 10/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/628,096	FRIOU, ROBERT LEE	
	Examiner	Art Unit	
	Ryan C. Hoesly	3727	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-111 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☐ Claim(s) ____ is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☒ Claim(s) 1-111 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C.

121:

- I. Claims 1-89 and 103-111, drawn to a container system, classified in class 224, subclass 660.
- II. Claims 90-102, drawn to a method of marketing, classified in class 705, subclass 40.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions I and II are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). In the instant case the product as claimed can be given away as a prize instead of marketed and sold as claimed.

3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

4. This application contains claims directed to the following patentably distinct species of the claimed invention:

Species 1 as depicted by figures 1a-1e,

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Species 2 as depicted by figures 2a-2e,

Species 3 as depicted by figures 3a-3e,

Species 4 as depicted by figures 4a-4e,

Species 5 as depicted by figures 5a-5e,

Species 6 as depicted by figures 6a-6e,

Species 7 as depicted by figures 7a-7e,

Species 8 as depicted by figures 8a-8e,

Species 9 as depicted by figures 9a-9e,

Species 10 as depicted by figures 10a-10e,

Species 11 as depicted by figures 11a-11e,

Species 12 as depicted by figures 12a-12e,

Species 13 as depicted by figures 13a-13e,

Species 14 as depicted by figures 14a-14e,

Species 15 as depicted by figures 15a-15e,

Species 16 as depicted by figures 16a-16e,

Species 17 as depicted by figure 17

Species 18 as depicted by figures 18a-18e,

Species 19 as depicted by figures 19a-19e,

Species 20 as depicted by figures 20a-20e,

Species 21 as depicted by figures 21a-21e,

Species 22 as depicted by figures 22a-22e,

Species 23 as depicted by figures 23a-23e,

Species 24 as depicted by figures 24a-24e,

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Species 25 as depicted by figures 25a-25e,

Species 26 as depicted by figures 26a-26e,

Species 27 as depicted by figures 27a-27e,

Species 28 as depicted by figures 28a-28e,

Species 29 as depicted by figures 29a-29e,

Species 30 as depicted by figures 30a-30e,

Species 31 as depicted by figures 31a-31e,

Species 32 as depicted by figures 32a-32e,

Species 33 as depicted by figures 33a-33e,

Species 34 as depicted by figures 34a-34e,

Species 35 as depicted by figures 35a-35e,

Species 36 as depicted by figures 36a-36e,

Species 37 as depicted by figures 37a-37e,

Species 38 as depicted by figures 38a-38e,

Species 39 as depicted by figures 39a-39e,

Species 40 as depicted by figures 40a-40e,

Species 41 as depicted by figures 41a-41e,

Species 42 as depicted by figures 42a,

Species 43 as depicted by figures 42b,

~~Species 44 as depicted by figures 43.~~

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, no claims are generic.

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Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ryan C. Hoesly whose telephone number is (703) 305-0576. The examiner can normally be reached on Monday-Thursday 8:00am-6:30pm.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lee Young can be reached on (703) 308-2572. The fax

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phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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LEE YOUNG
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700